BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JAMES R. WINTERS Claimant	
VS.) Docket No. 198,938
GNB BATTERY TECHNOLOGIES Respondent))
AND	
HOME INSURANCE COMPANY Insurance Carrier	}

ORDER

Respondent appeals an Order entered by Administrative Law Judge Steven J. Howard on June 27, 1995.

ISSUES

Respondent contends that the Administrative Law Judge exceeded his authority when he assessed the costs of an independent medical examination against the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Following a pre-hearing settlement conference, Administrative Law Judge Steven J. Howard appointed a neutral physician pursuant to K.S.A. 44-516 to perform an evaluation of the claimant for functional impairment and restrictions. The Administrative Law Judge also ordered respondent to pay the costs of the medical examination and report. Respondent asserts that the Administrative Law Judge exceeded his authority when he assessed the costs of the examination and report against the respondent.

The initial issue that the Appeals Board will address in this case is whether the Appeals Board has jurisdiction to review the Order entered by Administrative Law Judge Steven J. Howard on June 27, 1995. After reviewing the arguments contained in the Application for Review filed by the respondent and the brief of the claimant, the Appeals Board finds and concludes that it does not have jurisdiction to review this particular Order.

The decision of the Administrative Law Judge to have an independent medical examination performed on the claimant and to assess the costs of such examination to the

respondent is interlocutory in nature and made during the litigation of a workers compensation case before the Administrative Law Judge. This is not a final order that can be reviewed pursuant to K.S.A. 44-551, as amended by S.B. 59 (1995). Neither is this an order entered pursuant to the preliminary hearing statute, K.S.A. 44-534a, as preliminary hearing orders are limited to issues of furnishing medical treatment and payment of temporary total disability compensation. The Order now before the Appeals Board pertains to an interlocutory matter, ordering an independent medical examination, over which an Administrative Law Judge has authority to order during the litigation of a workers compensation case.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Application for Review filed by the respondent is dismissed as the Appeals Board lacks jurisdiction to review the Order of Administrative Law Judge Steven J. Howard ordering an independent medical examination and assessing costs of the same to the respondent.

Dated this	_ day of September 1995.	
	BOARD MEMBER	
	BOARD MEMBER	
	BOARD MEMBER	

c: James E. Martin, Overland Park, KS John David Jurcyk, Lenexa, KS Steven J. Howard, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED.